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Rule 22. Interpleader.

(a) Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical, but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim, third-party complaint or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.

(b) A plaintiff who disclaims any interest in the money or property that is the subject of the interpleader action shall, upon depositing the money or property in the registry of the court, be discharged from all liability. The court may make an award of reasonable litigation expenses, including attorneys' fees, to such a plaintiff.

Reporter's Notes to Rule 22: - 1. Rule 22 is identical to FRCP 22 and does alter prior Arkansas law. Superseded Ark. Stat. Ann. 27-816 (Repl. 1962), et seq. set forth prior interpleader procedure and it is this procedure, rather than the substance of prior law which is changed by this rule.

2. Previously, upon depositing money or property into the registry of the court, a plaintiff was released from all further liability and was awarded his costs and a reasonable attorney's fee. Under this rule, as under FRCP 22, the allowance of costs and fees rests in the sound discretion of the trial court. *Gulf Oil Corporation v. Oliver*, 412 F.2d 938 (C.C.A. 5th, 1969).

3. Prior Arkansas law did not expressly require a deposit of the disputed funds or property into the registry of the court, but it was clear that the plaintiff could not be discharged from further liability or awarded costs and fees until he had deposited the money or property. Under this and the Federal Rule, a deposit is not a jurisdictional prerequisite, but may be required by the court in its discretion so as to safeguard the property and insure the satisfaction of a judgment. *Emmco Ins. Co. v. Frankford Trust Co.*, 352 F. Supp. 130 (D.C. Pa., 1972). Compare, however, *Miller & Miller Auctioneers, Inc. v. Murphy Industries, Inc.*, 472 F.2d 893 (C.C.A. 10th, 1973).

4. Prior Arkansas law required interpleader actions to be brought in chancery court. The decisions under FRCP 22 make it clear that an interpleader is equitable in nature. *United Benefit Life Ins. Co. v. Leech*, 326 F. Supp. 598 (D.C. Pa., 1971); *Home Ins. Co. v. Moore*, 499 F.2d 1202 (C.C.A. 8th, 1974). Under this rule, however, interpleader actions are not limited to courts of equity.

Addition to Reporter's Notes, 1993 Amendment: - Rule 22 is amended by adding new subdivision (b), which provides that a disinterested stakeholder - i.e., a plaintiff who disclaims any interest in the money or property - is to be discharged from liability upon depositing the money or property in the registry of the court. Further, such a disinterested stakeholder may be awarded attorneys' fees and other litigation expenses, in the discretion of the court. Subdivision (b) is based on a statute that was superseded when Rule 22 was adopted; however, the revised rule departs from the statute by making a fee award discretionary rather than mandatory. See Ark. Stat. Ann. 27-816 (Repl. 1962). Absent express authorization, a fee award is impermissible in an interpleader action, even though the stakeholder is disinterested and brings about resolution of the conflicting claims by initiating the action. See, e.g., *Saunders v. Kleier*, 296 Ark. 25, 751 S.W.2d 343 (1988).

Addition to Reporter's Notes, 2001 Amendment: - The word "trial," which modified "court" in the second sentence of subdivision (b), has been deleted. Constitutional Amendment 80 established the circuit courts as the "trial courts of original jurisdiction" in the state and abolished the separate chancery and probate courts.

History Text:

History. Amended November 8, 1993, effective January 1, 1994; amended May 24, 2001, effective July 1, 2001

Associated Court Rules:

Rules of Civil Procedure

Group Title:

IV. Parties

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